

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated December 5, 2016 that held the appellant had no right to a reconsideration because she did not deliver her request for reconsideration of a ministry decision denying her a crisis supplement to purchase beds for her children, within 20 business days of being notified of that decision, as required by Section 79 of the Employment and Assistance Regulation.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 17.
Employment and Assistance Regulation (EAR), Section 79.

PART E – Summary of Facts

The appellant was not in attendance at the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

The information before the ministry at reconsideration included the following:

The appellant's Request for Reconsideration dated November 23, 2016 which included a two page letter from the appellant.

In the letter, the appellant writes that she is currently separated and caring for two young children. The appellant states that her parent has loaned her single mattresses that were placed on the floors in the children's rooms. The youngest child was frightened to sleep alone in her room and joined her mother in her mother's bed. The noise then would wake up the older child, almost nightly, and he too would join the mother and sibling in the mother's bed. Also, one child would roll off the mattress, nearly every night. This routine has left everyone quite tired. The appellant indicates that she has requested double beds for her children because it would ensure that her children would have extra wiggle room and a more comfortable sleep. The appellant also plans to buy rails for the beds which would be safer for toddlers who have restless sleeps. The situation has become urgent because the appellant is being tested for medical complications and she suffers from pain. Having her children in the same bed makes for a restless and uncomfortable night for all. The appellant's doctor has expressed how important it is for the appellant's health to be on a proper sleep schedule. The appellant further states that her parent now requires the return of one of the mattresses.

An Invoice dated September 15, 2016 from Furniture Store "A" for a double bed and mattress totaling \$1,120.01

An Invoice dated September 15, 2016 from Furniture Store "A" for another double bed and mattress totaling \$1,176.00.

An Invoice dated September 15, 2016 from Furniture Store "B" for two (2) double beds and mattresses totaling \$2,351.78.

An Invoice not dated from Furniture Store "C" for two (2) double beds and mattresses totaling \$2,230.14.

An Invoice not dated from Furniture Store "C" for two (2) double beds and mattresses totaling \$2,041.13.

In the Notice of Appeal dated December 8, 2016, the appellant indicated that this decision has left her with very little options to supply these pieces of furniture at this time or in the near future.

Note: Prior to the hearing, the ministry representative advised that the appellant had contacted the ministry to advise that she would like to dismiss the hearing and was provided with instructions to do so.

The ministry stood by their decision that they were unable to complete a reconsideration decision pursuant to the legislation.

Findings of Fact:

1. On September 23, 2016, the ministry informed the appellant of its decision that she was ineligible for a crisis supplement to purchase beds for her children.
2. On September 27, 2017, the ministry contacted the appellant by phone to advise her that the reconsideration package was ready to be picked up and at the same time, the ministry worker discussed the reconsideration process including timelines to re-submit her request to the ministry.
3. On November 23, 2016, the appellant requested a reconsideration of the decision.
4. On December 5, 2016, the ministry completed its review of the appellant's Request for Reconsideration.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry's decision that the appellant had no right to a reconsideration because she did not deliver her request for reconsideration of a ministry decision denying her a crisis supplement to purchase beds for her children, within 20 business days of being notified of that decision, as required by Section 79 of the Employment and Assistance Regulation.

Relevant Legislation

EAA: Reconsideration and appeal rights

17 (1) Subject to section 18, a person may request the minister to reconsider any of the following decisions made under this Act:

- (a) a decision that results in a refusal to provide income assistance, hardship assistance or a supplement to or for someone in the person's family unit;
 - (b) a decision that results in a discontinuance of income assistance or a supplement provided to or for someone in the person's family unit;
 - (c) a decision that results in a reduction of income assistance or a supplement provided to or for someone in the person's family unit;
 - (d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of
 - (i) the maximum amount of the supplement under the regulations, and
 - (ii) the cost of the least expensive and appropriate manner of providing the supplement;
 - (e) a decision respecting the conditions of an employment plan under section 9 [employment plan].
- (2) A request under subsection (1) must be made, and the decision reconsidered, within the time limits and in accordance with any rules specified by regulation.
- (3) Subject to a regulation under subsection (5) and to sections 9 (7) [employment plan], 18 and 27 (2) [overpayments], a person who is dissatisfied with the outcome of a request for a reconsideration under subsection (1) (a) to (d) may appeal the decision that is the outcome of the request to the tribunal.
- (4) A right of appeal given under subsection (3) is subject to the time limits and other requirements set out in this Act and the regulations.
- (5) The Lieutenant Governor in Council may designate by regulation
- (a) categories of supplements that are not appealable to the tribunal, and
 - (b) circumstances in which a decision to refuse to provide income assistance, hardship assistance or a supplement is not appealable to the tribunal.

EAR: How a request to reconsider a decision is made

79 (1) A person who wishes the minister to reconsider a decision referred to in section 17 (1) of the Act must deliver a request for reconsideration in the form specified by the minister to the ministry office where the person is applying for or receiving assistance.

- (2) A request under subsection (1) must be delivered within 20 business days after the date the person is notified of the decision referred to in section 17 (1) of the Act and may be delivered by
- (a) leaving it with an employee in the ministry office, or
 - (b) being received through the mail at that office.

The ministry's position is that it is unable to complete its review of the appellant's request for reconsideration, denying the appellant's request for a crisis supplement to purchase beds for her children because she delivered her Request For Reconsideration forms to the ministry after the legislated 20 business days from the date of the denial.

The appellant did not attend the hearing or submit a position.

The panel notes that the Request For Reconsideration forms in the record clearly state that the appellant had to submit the request form by October 24, 2016 which was 20 business days after she was notified of the ministry decision.

Also, the panel notes that there is nothing in the EAA or EAR giving the ministry the authority to grant an extension after the legislated deadline for submitting a request for reconsideration has passed.

The panel finds that the ministry reasonably determined that the evidence established that the appellant's Request For Reconsideration was not submitted to the ministry within the 20 business days stipulated in EAR Section 79(2).

Therefore, the panel confirms the ministry's decision that the appellant has no right of reconsideration. The appellant is not successful with her appeal.